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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,748	07/31/2001	Robert E. Gillis	016494-001100US	5719
20350	7590	11/24/2003	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			YIP, WINNIE S	
		ART UNIT	PAPER NUMBER	
		3637		

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/919,748	GILLIS, ROBERT E.
	Examiner Winnie Yip	Art Unit 3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .	6) <input type="checkbox"/> Other: ____ .

### **DETAILED ACTION**

This office action is in response to applicant's appeal Brief filed on September 2, 2003.

Applicant's argument with respect to the finality of the rejection of the last Office action mailed January 29, 2003 is persuasive and, therefore, the finality of that action is withdrawn.

PROSECUTION IS HEREBY REOPENED. Applicant's amendment filed May 29, 2003 has been entered. However, upon further consideration, a new ground(s) of rejection is made below.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

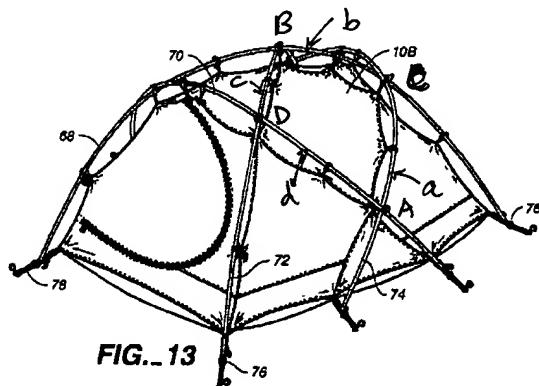
#### ***Claim Rejections - 35 USC § 103***

1. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer et al. (US Patent No. 5,901,727) in view of Gwin (US Patent NO. 5,274,980).

Kramer et al. show and disclose a frame for a shelter structure (see attached Figs. 13, 15, and 17), comprising: a plurality of flexible poles (12) each having two terminal ends, the poles being assumed a substantially arcuate shape under tension with the two terminal ends being terminated into a common plane such as to the ground to define a dome-shaped interior volume, the poles being intersected to form a plurality of crossings including at least one four-sided openings (i.e., areas 10B of Figs. 13) are formed by the intersected poles, the four-sided opening having opposite non adjacent vertices (A, B, C, D) formed by crossings of poles and sides formed by sections (a, b, c, d) of poles, a flexible membrane (10) being connected to the poles at a plurality of points. Wherein, in Fig. 16, Kramer et al. further teach the frame includes at least one tension harness (t) connected the diagonal vertices of the opening, the tension harness also

having free ends being fastened to the ends of the poles on the common plane. Kramer et al. do not define the shelter structure having at least one of the tension harness extending across the opening and connecting the non-adjacent pair of diagonal vertices of the opening as claimed. Gwin teaches a shelter structure having a plurality of poles being connected together to define a plurality of four-sided openings (i.e., between poles 36, 37), at least one tension harnesses (28) extending across the opening and connecting each non-adjacent pair of diagonal vertices for providing stronger support to the flexible membrane (18) supported thereon. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shelter structure of Kramer et al. having suitable tension harnesses extending across the openings of the poles and directly connecting the non-adjacent diagonal vertices of the openings as taught by Gwin for providing the shelter frame with a strongly support to the flexible membrane at the locations of openings.

In regard to claims 5-7 and 12-15, it is common engineering practice to provide suitable numbers of tensions harnesses extending across and connecting suitable non-adjacent pairs of vertices of openings in various arrangement as claimed as an obvious matter of design choice for providing a frame with suitable tensioning support for various applications.



***Response to Amendment***

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new grounds of rejection.

***Citations***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nichols '935 Scherer '901, Zeigler '980, Gilchrist '134 teach various shelter having tension harness connecting the cross sections of the poles for supporting a canopy over the poles that solves the same problem as similar to the claimed invention.

***Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Winnie Yip  
Primary Examiner  
Art Unit 3637

wsy  
November 17, 2003